

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LINDA STERMER,

Petitioner,

-v-

Case No. 2:12-CV-14013
HON. ARTHUR J. TARNOW

MILLICENT WARREN,

Respondent.

PETITIONER'S MOTION FOR RELEASE PENDING DECISION

NOW COMES Petitioner, Linda Stermer, by and through her attorney Sheldon Halpern, and moves this Honorable Court to grant Petitioner release pending decision on her application for a writ of habeas corpus, and states in support:

1. Petitioner Stermer is a United States citizen, resident of the State of Michigan, who is presently under sentence to the Michigan Department of Corrections (MDOC), Prisoner Number 757152. Petitioner is unlawfully restrained in violation of several rights and protections guaranteed a citizen under the United States Constitution. *Strickland v. Washington*, 466 U.S. 668; 104 S. Ct. 2052; 80 L.Ed.2d 674 (1984); *Evitts v. Lucey*, 469 U.S. 387; 105 S.Ct. 830; 83 L.Ed.2d 82 (1985).

2. Petitioner is being unconstitutionally restrained in the Eastern District of Michigan pursuant to her conviction of felony murder, (arson), after a jury trial held before the Honorable William C. Buhl, Van Buren County Circuit Court, a state court of

Michigan in the Western District.

3. On February 8, 2010, Judge William C. Buhl imposed a life sentence on Petitioner for felony murder. Case No. 09-016654.

4. The Michigan Court of Appeals affirmed her conviction June 23, 2011, docket no. 297057. The Michigan Supreme Court denied leave November 21, 2011, in docket no 143546. Habeas relief was sought in this Court, *Stermer v Warren*, 12-cv-14013-AJT-DRG. On December 10, 2012, this Court entered an Opinion and Order holding the Petition for Habeas Corpus in abeyance to permit Petitioner to raise issues using State of Michigan post-conviction procedures made and providing for collateral attack of her conviction. (R. 10).

5. On July 13, 2013, Petitioner, commenced a state-court collateral proceedings, and, on March 6, 2014, the motion was denied: Appeal was sought with the Michigan Court of Appeals and denied by Order of December 11, 2014 in docket no. 323443. Motion for Reconsideration was denied on February 19, 2015. Petitioner sought leave to appeal with the Michigan Supreme Court and was denied by Order on November 24, 2015 in docket no. 150997.

6. Petitioner returned to this Court and filed an Amended Brief in Support of Petition for Habeas Corpus; Respondent filed an Answer and Petitioner was permitted to file an Amended Reply to that Answer on November 7, 2016.

7. There have been no other appeals regarding these convictions and sentences; Petitioner has never before sought federal habeas corpus relief with respect to these convictions and sentences; and, Petitioner has no appeals or proceedings

presently pending in any other court, and is not facing any other sentences or charges.

8. Petitioner presents substantial questions of law that when considering the record, habeas relief is merited.

9. Petitioner also presents exceptional circumstances of deteriorating health and needs of family coupled with the substantial questions of law presented merit release pending decision.

10. Further argument and documents are set forth in the Brief in Support of, and Appendix to, this Motion.

WHEREFORE, Petitioner moves this Court to order the release of Petitioner, Linda Stermer, upon her own recognizance, or, in the alternative, upon reasonable surety, and upon such conditions that the Court finds just and proper.

Respectfully submitted by:

/s Sheldon Halpern
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